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California Regional Water Quality Control Board

Los Angeles Region

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Mr. Nelson Chung
Pacific Communities
1000 Dove Street
Newport Beach, CA 92660

WATER QUALITY CERTIFICATION FOR PROPOSED TENTATIVE TRACT 53354 RESIDENTIAL DEVELOPMENT PROJECT (Corps' Project No. 2003-00445-JLB), UNNAMED DRAINAGES, TRIBUTARIES TO PUENTE CREEK, CITY OF WEST COVINA, LOS ANGELES COUNTY (File No. 02-163)

Dear Mr. Chung:

Regional Board staff has reviewed your request on behalf of Pacific Communities (the Applicant) for a Clean Water Act Section 401 Water Quality Certification for the above-referenced project. Your application was deemed complete on August 19, 2004.

I hereby issue an order certifying that any discharge from the referenced project will comply with the applicable provisions of sections 301 (Effluent Limitations), 302 (Water Quality Related Effluent Limitations), 303 (Water Quality Standards and Implementation Plans), 306 (National Standards of Performance), and 307 (Toxic and Pretreatment Effluent Standards) of the Clean Water Act, and with other applicable requirements of State law. This discharge is also regulated under State Water Resources Control Board Order No. 2003 - 0017 - DWQ, "General Waste Discharge Requirements for Dredge and Fill Discharges that have received State Water Quality Certification" which requires compliance with all conditions of this Water Quality Certification.

The Applicant shall be liable civilly for any violations of this Certification in accordance with the California Water Code. This Certification does not eliminate the Applicant's responsibility to comply with any other applicable laws, requirements and/or permits.

Should you have questions concerning this Certification action, please contact Valerie Carrillo, Lead, Section 401 Program, at (213) 576-6759.

[Original Signed by]
Jonathan Bishop
Executive Officer

October 27, 2004
Date

California Environmental Protection Agency

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption
For a list of simple ways to reduce demand and cut your energy costs, see the tips at: <http://www.swrcb.ca.gov/news/echallenge.html>



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ATTACHMENT A

Project Information File No. 02-163

1. Applicant: Mr. Chung
Pacific Communities
1000 Dove Street
Newport Beach, CA 92660
Phone: (949) 660-8988 Fax: (949) 660-8866
2. Applicant's Agent: Martin Rasnick
Glenn Lukos Associates, Inc.
29 Orchard
Lake Forest, CA 92630
Phone: (949) 837-0404 Fax: (949) 837-5834
3. Project Name: Tentative Tract 53354 Residential Development
4. Project Location: City of West Covina, Los Angeles County
Longitude: 117° 54' 30"; Latitude: 34° 2' 30"
5. Type of Project: Residential development
6. Project Description: *Description:*
The proposed project consists of 13 acres of undeveloped land located north of the former BKK Landfill. The project area will be subdivided into approximately 46 detached single-family residential lots, three open space/slope lots, and one recreational area lot for a total of 50 lots. The average size of each residential lot is 5,806 square feet and will include 3.6 units per acre. Ingress and egress for the Project will occur along Azusa Avenue and will prevent the future extension of Fairgrove Road to preserve existing habitat for the coastal California gnatcatcher (*polioptila californica*). The Project will also support one first-flush detention basin at the western end of the project near Aroma Drive. The detention basin will provide water quality protection for the site and treat water prior to leaving the site.

Two jurisdictional drainages are located within the footprint of the project site. Total Corps and Regional Board jurisdiction associated with these drainages is 0.05 acres, none of which consist of

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jurisdictional wetlands.

The Applicant has proposed to develop the entire property as there are no practicable alternatives that include avoidance/minimization. Preservation of the on site drainages would result in the elimination of ingress and/or egress from the site, thus making the project impracticable. All impacts will occur within ephemeral drainages, which consist of coast live oak woodland and mule fat scrub. Although the Applicant has no practicable alternatives for minimization of impacts to Corps jurisdictional waters, the Applicant and the U.S. Fish and Wildlife Service have agreed upon preservation of 0.38 acres of coastal sage scrub habitat, 0.11 acres of prickly pear cactus habitat, and 0.14 acres of oak-walnut woodland habitat. Minimization of impacts to upland habitat is to ensure that the coastal California gnatcatcher continues to have available habitat on-site.

- | | |
|---|---|
| 7. Federal
Agency/Permit: | U.S. Army Corps of Engineers
NWP No. 39 (Permit No. 2003-00445-JLB) |
| 8. Other Required
Regulatory Approvals: | California Department of Fish and Game
Streambed Alteration Agreement (Notification No. 5-2002-0389) |
| 9. California
Environmental Quality
Act (CEQA)
Compliance: | The City Council of the City of West Covina approved the project's
Negative Declaration in Resolution No. 2002-66 on June 18, 2002. |
| 10. Receiving Water: | Puente Creek (Hydrologic Unit No. 405.41) |
| 11. Designated Beneficial
Uses: | MUN, GWR, REC-1, REC-2, WARM, WILD |
| 12. Impacted Waters of the
United States: | Non-wetland waters (vegetated streambed): 0.04 permanent acres
Non-wetland waters (unvegetated streambed): 0.01 permanent acres

Approximately 1,230 linear feet total |

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13. Dredge Volume: None
14. Related Projects Implemented/to be Implemented by the Applicant: The Applicant has not completed any additional projects within the Puente Creek Watershed within the last five years and has no plans to develop additional land within the Puente Creek Watershed over the next five years.
15. Avoidance/Minimization Activities: The Applicant has proposed to implement several Best Management Practices, including, but not limited to, the following:
- Limited access routes and stabilized access points;
 - Stabilizing denuded areas as soon as possible with seeding, mulching, or other effective methods;
 - Protecting adjacent properties with landscaped buffer strips, sediment barriers, or other effective methods;
 - Delineating clearing limits, easements, setbacks, sensitive areas, vegetation, and drainage courses by marking them in the field;
 - Stabilizing and preventing erosion from temporary conveyance channels and outlets;
 - Using sediment controls and filtration to remove sediment from water generated by dewatering or collected on site during construction;
 - Scheduling grading for the dry season if possible;
 - Designating specific areas of the site, away from streams or storm drain inlets, for storage, preparation, and disposal of building materials, chemical products, and wastes;
 - Storing stockpiled materials and wastes under a roof of plastic sheeting;
 - Storing containers of paint, chemicals, solvents, and other hazardous materials stored in containers of paint, chemicals, solvents, and other hazardous materials stored in containers

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under cover during rainy periods;

- Berming around storage areas to prevent contact with runoff;
- Covering open dumpsters securely with plastic sheeting, a tarp, or other cover during rainy periods;
- Designating specific areas of the site, away from streams and storm drain inlets, for auto and equipment parking and for routine vehicle and equipment maintenance;
- Routinely maintaining all vehicle and heavy equipment to avoid leaks;
- Performing major maintenance, repair, and vehicle and equipment washing off site, or in designated and controlled areas on site; and
- Collecting used motor oil, radiator coolant, and other fluids with drip pans or drop cloths. Storing and labeling spent fluids carefully prior to recycling or proper disposal.

16. Proposed Compensatory Mitigation:

The Applicant has proposed to provide in-lieu fees for off-site compensatory mitigation at a minimum **2:1 ratio** for permanent impacts associated with the project. The mitigation shall consist of a minimum of **0.10 acres** of riparian habitat creation and/or restoration.

All trees impacted by Project construction, such as coast live oak (*Quercus agrifolia*) and California black walnut (*Juglans californica*), will be mitigated per the City of West Covina's tree ordinance. The Applicant will also preserve on-site: 0.38 acres of coastal sage scrub, 0.11 acres of prickly pear cactus, and 0.14 acres of oak-walnut woodland. An additional 2.15 acres of coastal sage scrub will be restored on site in perpetuity to provide preservation of gnatcatchers and gnatcatcher habitat.

As mitigation for impacts to Corps jurisdictional waters, the applicant proposes to pay a one-time in-lieu fee payment into the Santa Monica Mountains Conservancy Mitigation Bank. Fees associated with this mitigation bank total \$120,000 per acre, or a

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total of \$12,000 for the proposed mitigation for this project.

See Attachment B Conditions of Certifications, Additional Conditions for modifications and additions to the above proposed compensatory mitigation.

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STANDARD CONDITIONS

Pursuant to §3860 of Title 23 of the California Code of Regulations (23 CCR), the following three standard conditions shall apply to this project:

1. This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to §13330 of the California Water Code and Article 6 (commencing with 23 CCR §3867).
2. This certification action is not intended and shall not be construed to apply to any activity involving a hydroelectric facility and requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to 23 CCR Subsection 3855(b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
3. Certification is conditioned upon total payment of any fee required pursuant to 23 CCR Chapter 28 and owed by the Applicant.

ADDITIONAL CONDITIONS

Pursuant to 23 CCR §3859(a), the Applicant shall comply with the following additional conditions:

1. The Applicant shall submit to this Regional Board copies of any other final permits and agreements required for this project, including, but not limited to, the U.S. Army Corps of Engineers' Section 404 Permit and the California Department of Fish and Game's Streambed Alteration Agreement. **These documents shall be submitted prior to any discharge to waters of the State.**
2. The Applicant and all contractors employed by the Applicant shall have copies of this Certification, the approved maintenance plan, and all other regulatory approvals for this project on site at all times so they are familiar with all conditions set forth.
3. Fueling, lubrication, maintenance, operation, and storage of vehicles and equipment shall not result in a discharge or a threatened discharge to waters of the State. At no time shall the Applicant use any vehicle or equipment which leaks any substance that may impact water quality. Staging and storage areas for vehicles and equipment shall be located outside of waters of the State.

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4. No construction material, spoils, debris, or any other substances associated with this project that may adversely impact water quality standards, shall be located in a manner which may result in a discharge or a threatened discharge to waters of the State.
5. The Applicant shall implement all necessary control measures to prevent the degradation of water quality from the proposed project in order to maintain compliance with the Basin Plan. The discharge shall meet all effluent limitations and toxic and effluent standards established to comply with the applicable water quality standards and other appropriate requirements, including the provisions of Sections 301, 302, 303, 306, and 307 of the Clean Water Act. This Certification does not authorize the discharge by the applicant for any other activity than specifically described in the 404 Permit.
6. The discharge shall not: a) degrade surface water communities and populations including vertebrate, invertebrate, and plant species; b) promote the breeding of mosquitoes, gnats, black flies, midges, or other pests; c) alter the color, create visual contrast with the natural appearance, nor cause aesthetically undesirable discoloration of the receiving waters; d) cause formation of sludge deposits; or e) adversely affect any designated beneficial uses.
7. The Applicant shall allow the Regional Board and its authorized representative entry to the premises, including all mitigation sites, to inspect and undertake any activity to determine compliance with this Certification, or as otherwise authorized by the California Water Code.
8. Application of pesticides must be supervised by a certified applicator and be in conformance with manufacturer's specifications for use. Compounds used must be appropriate to the target species and habitat. All pesticides directed toward aquatic species must be approved by the Regional Board. Pesticide utilization shall be in accordance with State Water Resources Control Board Water Quality Order Nos. 2004-0008-DWQ and 2004-0009-DWQ.
9. The Applicant shall not conduct any construction activities within waters of the state during a rainfall event. The Applicant shall maintain a **five-day clear weather forecast** before conducting any operations within waters of the State.
10. The Applicant shall utilize the services of a qualified biologist with expertise in riparian assessments during all construction activities where clearing involves areas to be partially cleared (i.e. some vegetation is to remain in the same reach or in an adjacent reach). The biologist shall be available on site during construction activities to ensure that all protected areas are marked properly and ensure that no vegetation outside the specified areas is removed. The biologist shall have the authority to stop the work, as necessary, if instructions are not followed. The biologist shall be available upon request from this Regional Board for consultation within 24 hours of request of consultation.

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11. No activities shall involve wet excavations (i.e., no excavations shall occur below the seasonal high water table). A minimum **5-foot** buffer zone shall be maintained above the existing groundwater level. If construction or groundwater dewatering is proposed or anticipated, the Applicant shall file a **Report of Waste Discharge** to this Regional Board and obtain any necessary NPDES permits/Waste Discharge Requirements prior to discharging waste. Sufficient time should be allowed to obtain any such permits (generally 180 days). If groundwater is encountered without the benefit of appropriate permits, the Applicant shall cease all activities in the areas where groundwater is present, file a Report of Waste Discharge to this Regional Board, and obtain any necessary permits prior to discharging waste.
12. All project activities not included in this Certification, and which may require a permit, must be reported to the Regional Board for appropriate permitting. Bank stabilization and grading, as well as any other ground disturbances, are subject to restoration and revegetation requirements, and may require additional Certification action.
13. All surface waters, including ponded waters, shall be diverted away from areas undergoing grading, construction, excavation, vegetation removal, and/or any other activity which may result in a discharge to the receiving water. If surface water diversions are anticipated, the Applicant shall develop and submit a **Surface Water Diversion Plan** to this Regional Board. The plan shall include the proposed method and duration of diversion activities, erosion and sediment controls, and a map or drawing indicating the locations of diversion and discharge points. The plan shall be submitted prior to any surface water diversions. If surface flows are present, then upstream and downstream monitoring for pH, temperature, dissolved oxygen, turbidity, and total suspended solids shall be implemented. These constituents shall be monitored on a **daily** basis during the first week of diversion activities, and then on a **weekly** basis, thereafter, until the in-stream work is complete. Results of the analyses shall be submitted to this Regional Board by the **15th** day of each subsequent sampling month. A map or drawing indicating the locations of sampling points shall be included with each submittal. Diversion activities shall not result in the degradation of beneficial uses or exceedance of water quality objectives of the receiving waters. Any such violations may result in corrective and/or enforcement actions, including increased monitoring and sample collection.
14. The project shall comply with the local regulations associated with the Regional Board's **Municipal Stormwater Permit** issued to Los Angeles County and co-permittees under NPDES No. CAS004001 and Waste Discharge Requirements Order No. 01-182. This includes the Standard Urban Storm Water Mitigation Plan (SUSMP) and all related implementing local ordinances and regulations for the control of stormwater pollution from new development and redevelopment. The project shall also comply with all requirements of the **National Pollutant Discharge Elimination System (NPDES) General Permit** for

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storm water discharges associated with construction activity, Order No. 99-08-DWQ. All stormwater treatment systems shall be located outside of any water of the State and shall not be used as a wetland or riparian mitigation credit.

15. The Applicant shall restore all TEMPORARY IMPACTS to waters of the United States and all other areas of temporary disturbance which could result in a discharge or a threatened discharge to waters of the state. Restoration shall include grading of disturbed areas to pre-project contours and revegetation with native species to the extent feasible. The Applicant shall implement all necessary Best Management Practices to control erosion and runoff from areas associated with this project.
16. The Applicant shall provide COMPENSATORY MITIGATION to offset the proposed permanent impacts to **0.05 acres** within waters of the United States by creating or restoring riparian habitat at a minimum (**2:1**) area replacement ratio (**0.10 acres**). As an alternative, the Applicant may provide adequate funding to a third party organization for the creation or restoration of a total of 0.10 acres of riparian habitat within waters of the United States. The mitigation site shall be located within the watershed to the extent feasible unless otherwise approved by this Regional Board. The location of the mitigation site shall be clearly identified on a map of suitable quality and shall be defined by latitude and longitude. This information shall be submitted to this Regional Board for approval prior to any disturbance within waters of the United States and shall include copies of any agreements made between the Applicant and a third party organization regarding compensatory mitigation efforts.
17. The Applicant shall submit to this Regional Board **Annual Mitigation Monitoring Reports** by **January 1st** of each year documenting all restoration and mitigation efforts, including, percent survival by plant species and percent cover. The reports shall include discussion of any monitoring activities and exotic plant control efforts. Representative pre and post photographs from designated stations shall be included in the reports. The reports shall be submitted by **January 1st** each year for a minimum period of **five (5) years** after planting or until mitigation, success has been achieved.
 - (a) Color aerial and representative cross-section photo documentation of the pre- and post-project conditions;
 - (b) Geographical Positioning System (GPS) coordinates in decimal-degree format outlining the boundary of the project and mitigation areas;
 - (c) The overall status of project including a detailed schedule of work;
 - (d) Copies of all permits revised as required in Additional Condition 1; and

Conditions of Certification
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- "I declare under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who managed the system or those directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

____ (Signature)
____ (Title)''

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22. The project shall comply with the local regulations associated with the Regional Board's **Municipal Stormwater Permit** issued to Ventura County and co-permittees under NPDES No. CAS004002 and Waste Discharge Requirements Order No. 00-108. This includes the Stormwater Quality Urban Impact Mitigation Plan (SQUIMP) and all related implementing local ordinances and regulations for the control of stormwater pollution from new development and redevelopment. The project shall also comply with all requirements of the National Pollutant Discharge Elimination System (NPDES) **General Permit** for Storm Water Discharges Associated with Construction Activity, Order No. 99-08-DWQ. All stormwater treatment systems shall be located outside of any water of the State and shall not be used as a wetland or riparian mitigation credit.
23. The Applicant or their agents shall report any noncompliance with this Certification, which may endanger human health or the environment. Any such information shall be provided verbally to the Executive Officer within 24 hours from the time the Applicant becomes aware of the non-compliance. A written submission shall also be provided within five days of the time the Applicant becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, corrective actions and if the noncompliance has not been corrected; the anticipated time it is expected to continue and steps taken or planned to reduce, eliminate and prevent recurrence of the noncompliance.
24. *Enforcement:*
 - (a) In the event of any violation or threatened violation of the conditions of this Certification, the violation or threatened violation shall be subject to any remedies, penalties, process or sanctions as provided for under state law. For purposes of section 401(d) of the Clean Water Act, the applicability of any state law authorizing remedies, penalties, process or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this Certification.
 - (b) In response to a suspected violation of any condition of this Certification, the State Water Resources Control Board (SWRCB) or Regional Water Quality Control Board (RWQCB) may require the holder of any permit or license subject to this Certification to furnish, under penalty of perjury, any technical or monitoring reports the SWRCB deems appropriate, provided that the burden, including costs, of the reports shall be a reasonable relationship to the need for the reports and the benefits to be obtained from the reports.
 - (c) In response to any violation of the conditions of this Certification, the SWRCB or RWQCB may add to or modify the conditions of this Certification as appropriate to ensure compliance.

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25. This Certification shall expire five (5) years from date of this Certification. The Applicant shall submit a complete application prior to termination of this Certification if renewal is requested.